
UTAH LABOR COMMISSION

DAVID W. HOLMES,

Petitioner,

vs.

**LAYTON CITY FIRE DEPARTMENT
and WORKERS COMPENSATION
FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 07-0029

David W. Holmes asks the Utah Labor Commission to review Administrative Law Judge Lima's denial of his claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Holmes claimed workers' compensation benefits for an accident that occurred while working for Layton City Fire Department ("Layton") on June 12, 2001. The parties stipulated to facts, waived a hearing, and requested review from a medical panel. The medical panel concluded Mr. Holmes' accident merely caused a temporary aggravation of a preexisting back condition. Judge Lima adopted the panel's report and denied Mr. Holmes' claim for medical care.

In his motion for review, Mr. Holmes argues that the work accident was a permanent aggravation of a preexisting back condition and he is entitled to medical care.

FINDINGS OF FACT

The following facts are relevant to the present issue:

Mr. Holmes has a history of lower back and leg problems since 1990, unrelated to his work at Layton. On June 12, 2001, Mr. Holmes strained his back at work while helping to carry a four hundred pound patient on a stretcher. This work related strain resolved by June 25, 2001, with no further reports of pain for three months.

In September and December of 2001, Mr. Holmes was treated for back pain sustained from non-work activities. Over the next several years, Mr. Holmes received intermittent treatment for ongoing back and leg pain. On October 3, 2006, Mr. Holmes' primary care physician, Dr. Heder,

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recommended additional medical treatment that he attributed to the work accident of June 12, 2001.

On April 16, 2007, at Layton's request, Mr. Holmes was evaluated by Dr. Moress. In Dr. Moress' opinion, the 2001 work accident caused only a temporary aggravation of Mr. Holmes' preexisting lower back condition and no additional medical care was necessary for that event.

The impartial medical panel appointed by Judge Lima agreed with Dr. Moress that Mr. Holmes sustained only a temporary aggravation from the work accident of June 12, 2001. The panel further opined that Mr. Holmes' lower back problems were "more in association with multiple episodes of discomfort occurring spontaneously before and after [the work accident on June 12, 2001,] and in association with his very active personal and professional activities"

DISCUSSION AND CONCLUSION OF LAW

The issue before the Commission is whether Mr. Holmes' need for further medical care is causally related to the June 12, 2001, work accident.

Taking into account Mr. Holmes's history of treatment for lower back and leg pain, the full medical record, and Mr. Holmes relief from pain within two weeks of the work accident, the impartial medical panel concluded that Mr. Holmes' June 12, 2001, work accident caused only a temporary aggravation of a preexisting back condition and needed no further medical care. This opinion is supported by the opinion of Dr. Moress. The Commission agrees with Judge Lima that these opinions are persuasive. The Commission therefore concurs with Judge Lima's denial of Mr. Holmes' claim for additional medical treatment.

ORDER

The Commission affirms Judge Lima's decision. It is so ordered.

Dated this 6th day of March, 2008.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

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NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.

